

REMARKS

Claims 14 to 33 are now pending.

Reconsideration is respectfully requested based on the following.

With respect to page 2 of the Office Action, claims 14 and 19 to 26 were rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,856,906. (“Winner”), in view of U.S. Patent No. 5,910,786 (“Watanabe”).

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claim 14, as presented, is to a method for controlling a driver-assistance device, including: evaluating measured quantities, to be recorded by sensors, for triggering a reaction, determining measuring instants through repeating cycles for acquiring and evaluating the measured quantities, each of the repeating cycle having a cycle time t_z , and determining whether a triggering criterion is reached, and if so, sending a trigger to the driver-assistance device, and if not, then predicting a triggering instant, and determining whether one of the measuring instants situates immediately after the triggering instant, and if so, repeating the evaluating of the measured quantities, and if not, then adjusting the cycle

time t_z for subsequent measuring instants so that one of the measuring instants follows as immediately as possible an instant at which there are measured quantities that give rise to a triggering.

The Final Office Action admits that Winner does not disclose the above-highlighted feature relating to *predicting a triggering instant*. As to Watanabe, the cited portion (col. 3, lines 1 to 25) concerns “improving the resolution of a distance by changing a modulation cycle” of an on-vehicle radar and refers to three Japanese Unexamined Patent Publications as examples. The first Japanese publication concerns a technique that shortens “a modulation cycle (time) so as to decrease a normalized value of a quotient of a distance by a beat frequency.” The second Japanese publication concerns a technique that shortens the modulation cycle when a target is close “in order to confine the range of sensed distances to short distances.” Finally, the third Japanese publication concerns a technique that “when a modulation cycle (time) is shortened, the resolution of a velocity decreases.”

However, none of the Japanese publications concern *predicting a triggering instant*. More importantly, none of these three Japanese publications disclose (or even suggest) a way to predict a triggering instant. In contrast, claim 14 provides for *predicting a triggering instant*, and further *determining whether one of the measuring instants situates immediately after the triggering instant, and if so, repeating the evaluating of the measured quantities, and if not, then adjusting the cycle time t_z for subsequent measuring instants so that one of the measuring instants follows as immediately as possible an instant at which there are measured quantities that give rise to a triggering*. Indeed, any reading of the Winner and Watanabe combination simply does not disclose (or even suggest) the feature of *adjusting the cycle time t_z for subsequent measuring instants so that one of the measuring instants follows as immediately as possible an instant at which there are measured quantities that give rise to a triggering* as provided for in the context of claim 14. Therefore, claim 14 is not rendered unpatentable over the combination of Winner and Watanabe.

Therefore, claim 14 is allowable, as are its dependent claims 19 to 21.

Claim 22, as presented, includes features like those of claim 14, as presented, and it is therefore allowable for essentially the same reasons as claim 14, as are its dependent claims 23 to 26.

With respect to page 5 of the Office Action, claims 15 and 27 were rejected under 35 U.S.C. §103(a) as unpatentable over Winner, in view of Watanabe, and in further view of U.S. Patent Publication No. 2003/0055563 to Lars et al. ("Lars").

Claims 15 and 27 respectively depend from claims 14 and 22, and they are therefore allowable for the same reasons as their respective base claims 14 and 22, since the secondary Lars reference does not cure (and is not asserted to cure) the critical deficiencies of the combination of Winner and Watanabe.

With respect to page 6 of the Office Action, claims 17, 18, 30, and 31 were rejected under 35 U.S.C. §103(a) as unpatentable over Winner, in view of Watanabe, and in further view of U.S. Pat. Pub. No. 2003/0168271 ("Massen").

Claims 17, 18, 30, and 31 depend respectively from claims 14 and 22, and they are therefore allowable for the same reasons as claims 14 and 22, since the secondary Massen reference does not cure (and is not asserted to cure) the critical deficiencies of the combination of Winner and Watanabe.

With respect to page 7 of the Office Action, claims 28, 29, 32, and 33 under 35 U.S.C. §103(a) as unpatentable over Winner, in view of Watanabe, and in further view of Lars, and in further view of Massen.

Claims 28, 29, 32, and 33 ultimately depend from claim 14, and they are therefore allowable for the same reasons as claim 14, since the secondary Lars and Massen references do not cure (and is not asserted to cure) the critical deficiencies of the combination of Winner and Watanabe.

As further regards all of the obviousness rejections, any Official Notice is respectfully traversed to the extent that it is maintained and it is requested that the Examiner provide specific evidence to establish those assertions and/or contentions that may be supported by the Official Notices under 37 C.F.R. § 1.104(d)(2) or otherwise. In particular, it is respectfully requested that the Examiner provide an affidavit and/or that the Examiner provide published information concerning these assertions. This is because the § 103 rejections are apparently being based on assertions that draw on facts within the personal knowledge of the Examiner, since no support was provided for these otherwise conclusory and unsupported assertions. (See also MPEP § 2144.03).

Accordingly, claims 14 to 33 are allowable.

CONCLUSION

It is therefore respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is therefore respectfully requested.

Respectfully submitted,

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